

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

MALIBU MEDIA, LLC		
Plaintiff,	Case No. 1:13-cv-00205-WTL-MJD	
v.		
KELLEY TASHIRO and N. CHARLES TASHIRO	Hon. Mark J. Dinsmore	
Defendants	<p style="text-align: center;">DEFENDANTS SIXTH MOTION IN LIMINE TO EXCLUDE PAIGE'S EXPERT WITNESS REPORT REGARDING HIS TEST OF IPP'S SOFTWARE</p>	

The Defendants, KELLEY TASHIRO and N. CHARLES TASHIRO, come to this Honorable Court and move it to exclude Paige's report relating to his test of IPP's software from the evidentiary hearing scheduled for January 29, 2015. In support of the same, the Defendants provide the attached memorandum and state as follows:

1. The Plaintiff asserts that it may introduce, as evidence, "Paige's expert witness reports regarding his test of IPP's software . . ." (ECF Doc. 169, at 3).
2. Paige is not an expert qualified to testify as to BitTorrent monitoring matters. He cannot opine on this subject.¹ Further, his report shows a fundamental misunderstandings regarding the infringement detection software. He cannot be an expert.
3. Just as important, IPP's purported detection of infringement is irrelevant to the matter at hand – purported deletion of files and lying about DMCA notices.

¹ The Defendants are aware that another defendant in another Malibu matter has attempted to bar the testimony of Mr. Paige regarding his IPP detection process. However, that defendant's argument did not appear to challenge whether or not Mr. Paige was actually an expert qualified to opine on such matters. Thus, it would be inappropriate to compare this apple to that orange.

4. Accordingly, Paige's expert witness report regarding his test of IPP's software should be excluded as evidence at the evidentiary hearing of January 29, 2015.

WHEREFORE, KELLEY TASHIRO and N. CHARLES TASHIRO respectfully request that this Honorable Court bar the Paige's expert witness report regarding his test of IPP's software.

Respectfully submitted,

/s/ Jonathan LA Phillips
One of their attorneys
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CERTIFICATE OF SERVICE

I certify that on January 2, 2015, a copy of the foregoing has been filed with the Clerk of the Court via the Court's ECF filing system, thereby serving it upon all counsel of record.

/s/ Jonathan LA Phillips